IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 175 OF 2006.

Krishnarao Shivram Yadav. ... Petitioner.

Versus.

Shamrao Dnyanu Shewale and others. ... Respondents.

Shri P.J.Pawar for the Petitioner.

Shri Vinod Jadhav for the Respondents Nos.1 to 5 and 7.

Shri D.A.Patil, A.G.P. for State.

CORAM : ABHAY S.OKA, J.

DATED : 26th April, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. It is alleged in the petition that the following statement of the 8th Respondent recorded in order dated 8th September 2005 passed by this Court constitutes an undertaking:

> "I am informed by the learned Counsel for defendant 1 that defendant 8 has already given cheque in the sum of Rs.6,43,753/- to defendant No.1. The learned counsel for defendant 8, however, states that defendant 8 has given instructions to the Treasury office that the Bank may be informed that the said amount may not be paid to defendant 1 on account of the pending litigation."

Submission is that in breach of the alleged undertaking,

the Respondent No.8 gave instructions to the Treasury Officer as a result of which the 1st Defendant in the suit has withdrawn the amount. The order dated 8th September 2005 has to be read as a whole. In one of the earlier paragraphs, this Court observed that the suit was simplicitor for injunction and the Petitioner has not specified what was his share in the compensation. It is obvious that the statement which is referred to above cannot be construed as an undertaking not to release the amount till the suit is disposed of.

2. I am informed that the Petitioner has already taken appropriate steps for recovery of the amount of his share in the compensation amount.

3. No case is made out for taking action under the Contempt of Courts Act, 1971. The notice issued earlier is discharged. It is made clear that the remedy of the Petitioner for recovery of the amount will not be affected by disposal of the contempt petition and all contentions in that behalf are expressly kept open.

Judge.